IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.624 OF 2004

Mahadeo Krishna Nagane ...Appellant

Vs.

Vithal Krishna Nagane ...Respondent

Mr. M.P.Mishra for the Appellant
Mr. G.S.Godbole i/b Mr.N.R.Patil for the Respondent.

CORAM: A.S.OKA, J.

DATED: JANUARY 27,2005.

P.C.:

1. Heard the learned Counsel for the Appellant. The Trial Court decreed the suit for possession filed by the Respondent. The decree of the Trial Court has been confirmed in Appeal by the District Court.

2. The learned Counsel for the Appellant submitted that the suit for possession is based on memorandum of partition effected between the parties on 11th May 1988. He submitted that the said memorandum of partition is not duly registered under the provisions of the Indian Registration Act, 1908. He submitted that the Respondent will not be entitled to any right, title or interest in the suit property on the basis of the said memorandum of partition. He submitted that the decree for possession could not have been passed on the basis

of said document.

3. There is no merit in the contention. Both the Courts have recorded a finding that there was oral partition effected between the parties and the factum of the oral partition has been recorded in memorandum of partition dated 11th May 1988. The said document by itself does not create partition. Therefore, the said document is not a compulsorily registrable document.

4. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

Judge.